

AMENDING THE COMMUNICATIONS ACT OF 1934 WITH
RESPECT TO THE ISSUANCE OF LICENSES TO NON-
CITIZENS FOR RADIO STATIONS ON AIRCRAFT

JUNE 16, 1958.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. MACK of Illinois, from the Committee on Interstate and Foreign
Commerce, submitted the following

R E P O R T

[To accompany H. R. 8543]

The Committee on Interstate and Foreign Commerce, to whom
was referred the bill (H. R. 8543) to amend the Communications Act
of 1934 to authorize, in certain cases, the issuance of licenses to
noncitizens for radio stations on aircraft and for the operation thereof,
having considered the same, report favorably thereon with amend-
ments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Page 1, line 7, after "finds" insert "that".

Page 1, line 8, after "thereby" and before the comma insert:

and that security considerations have been satisfied

Page 1, line 10, strike out "Commission" and insert in lieu thereof
"Administration".

Page 2, line 8, strike out "the operation of".

Page 2, lines 11 and 12, strike out: "Commission" and insert in
lieu thereof "Administration".

PURPOSE OF LEGISLATION

The purpose of the legislation is to enhance air safety in the United
States by authorizing the Federal Communications Commission
to issue licenses to noncitizens for the operation of aircraft radio
stations in the case of persons holding United States pilot certificates
or foreign aircraft pilot certificates which are valid in the United
States on the basis of reciprocal agreements entered into with foreign
governments.

Under present law, the Civil Aeronautics Administration is authorized and does issue pilot certificates to nationals of friendly foreign countries. The Federal Communications Commission is now prohibited from issuing radio operator or radio stations licenses to the same individuals.

The result has been that some persons have been authorized to operate aircraft in the United States and at the same time have been denied an important safety feature which is of value not only to the alien pilot but to other aircraft whose safety is jeopardized because the alien pilot may not operate his aircraft radio.

HEARINGS ON LEGISLATION

Hearings were held on the legislation in which testimony was received from the author of the bill, several other Members of Congress, and representatives of the Civil Aeronautics Administration, Civil Aeronautics Board, Federal Communications Commission, and the Aircraft Owners & Pilots Association, all of whom endorsed the bill.

A question was raised in the course of the hearings as to the responsibility under present law for security clearance of individuals who would come within the provisions of this legislation. It was testified that the present title XII of the Civil Aeronautics Act would provide the Civil Aeronautics Board with appropriate authority for the formulation of regulations dealing with the security clearance of all airmen.¹

COMMITTEE AMENDMENTS

In addition to several clarifying amendments the committee amended the bill so as to require before issuance of a license a finding by the Federal Communications Commission that security considerations have been satisfied. The committee feels that the provision contained in the bill requiring a finding that the public interest will be served by the issuance of a license should itself be sufficient to include security considerations. However, the committee desired to place particular emphasis on the need for proper security standards which should govern the issuance of radio station licenses, and, therefore, included the aforementioned amendment in the bill as reported.

¹ SEC. 1201 (64 Stat. 825, 49 U. S. C. 701). The purpose of this title is to establish security provisions which will encourage and permit the maximum use of civil aircraft consistent with the national security. Whenever the President determines such action to be required in the interest of national security, he may direct the Secretary of Commerce and the Civil Aeronautics Board to exercise the powers, duties, and responsibilities granted in this title to the extent, in the manner, and for such periods of time as the President considers necessary.

SEC. 1202 (64 Stat. 825, 49 U. S. C. 702). The Board shall consider requirements of national security as well as safety of flight in air commerce, in exercising its powers and carrying out its responsibilities under title VI of this Act.

AGENCY REPORTS

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON H. R. 8543, A BILL TO AMEND THE COMMUNICATIONS ACT OF 1934 TO AUTHORIZE, IN CERTAIN CASES, THE ISSUANCE OF RADIO LICENSES ON AIRCRAFT TO BE HELD BY NONCITIZENS

H. R. 8543 would amend sections 303 (1) and 310 (a) (1) of the Communications Act of 1934.

The proposed amendment to section 303 (1) would authorize the Commission to issue licenses to noncitizens for the operation of aircraft radio stations in the case of persons holding United States pilot certificates issued by the Civil Aeronautics Administration or persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments. The proposed amendment to section 310 (a) (1) would authorize the Commission to issue station licenses to noncitizens under the same circumstances.

There appears to be a substantial need in the area of air safety for legislation of this nature because of the present difference in statutory standards applied by the Civil Aeronautics Administration in issuing pilot certificates, and the Federal Communications Commission in issuing station licenses for aircraft and aircraft radio operator licenses. The CAA is authorized and does issue pilot certificates to the nationals of any friendly foreign country but the Commission is now prohibited from issuing radio operator or station licenses to the same individuals. The result has been that some persons who are authorized to operate aircraft in the United States are at the same time denied an important safety feature, which is of value not only to the alien pilot himself but to other air and ground personnel with whom he could otherwise be in contact.

H. R. 8543 is calculated to enhance air safety in the United States and is therefore endorsed by the Commission. It should, in addition, relieve the Congress of a certain number of private bills with which it has been burdened in the past.

It may be that the proposed relaxation of citizenship requirements will involve security considerations with respect to some of the aliens who would be made eligible for licensing. However, the Commission feels that if the CAA has satisfied itself as to the security problem of the individual applying for a pilot certificate and subsequently issues such an individual a pilot certificate the Commission may then issue a station license or operator's license to that pilot. Similarly, when the State Department negotiates reciprocal agreements with foreign governments, any security problems can be disposed of as part of the negotiation, and the Commission can properly issue operator or station licenses under the authority of the agreement.

Attention is called to the fact that adoption of the bill in its present form would permit the unusual situation of permitting the issuance of a station license to a noncitizen while at the same time forbidding the issuance of a station license to a citizen of the United States representing a foreign government. Section 310 (a) (2) of the Communications Act prohibits the Commission from granting a station license to "any foreign government or the representative thereof." Applications are occasionally received from honorary vice counsels

and others who represent foreign governments in some capacity but who are citizens of the United States. Congress may wish to consider affording the Commission discretionary authority in this area.

It is suggested that on line 8, page 2, the words, "the operation of," be deleted. This would make it clearer that a station license, rather than an operator's license, is involved.

Finally, on line 10, page 1, and on line 11, page 2, the word "Administration" should be substituted for the word "Commission."

Adopted April 9, 1958.

CIVIL AERONAUTICS BOARD,
Washington, D. C., April 3, 1958.

HON. OREN HARRIS,

*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR CONGRESSMAN HARRIS: This is in reply to your two letters of January 10, 1958, acknowledged January 13, 1958, requesting the Board's comments on H. R. 6886 and H. R. 8543.

Under existing provisions of the Federal Communications Act there is no authority to issue radio operator licenses to persons who are not citizens of the United States. On the other hand, such persons are not, by reasons of their lack of citizenship, barred from obtaining authorization to operate aircraft in this country, and many aliens have been granted such authorization. They may operate anywhere in the United States aircraft in which the use of radio is not required.

However, most types of aircraft operation now require the use of two-way radio equipment. Notwithstanding the actual proficiency in radio operations which an alien may possess, he is barred from receiving a radio operator's license, and the consequence is that whatever authorization he may possess to operate aircraft in this country is substantially curtailed. From the standpoint of the Board, it is believed that the existing restriction which prohibits the Federal Communications Commission from granting a radio operator's license to an alien serves no useful purpose insofar as the operation of aircraft radio by an alien authorized to operate aircraft is concerned, and constitutes a needless inconsistency with the provisions of the law relating to the operation of aircraft by foreigners.

H. R. 6886 and H. R. 8543 would remedy the situation by amending section 303 (b) of the Federal Communications Act. That section now authorizes the Federal Communications Commission to issue radio licenses "to such citizens of the United States as the Commission finds qualified." The amendment would add: "except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates issued by the Civil Aeronautics Commission [Administration], or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments." The Board recommends the adoption of such an amendment. However, "Civil Aeronautics Commission" should be changed to read: "Civil Aeronautics Administration."

H. R. 8543 would also amend section 310 (a) of the Federal Communications Act. In addition to providing for the licensing of radio

operators, the act has a separate requirement for the licensing of radio stations. Section 310 (a) as it now stands provides that a radio station license shall not be granted to an alien or the representative of an alien. Radio equipment installed on aircraft comes within the classification of a radio station, and radio equipment installed on United States registered aircraft is licensed by the Federal Communications Commission. However, these licenses are only issued to citizens who are in possession and control of the radio equipment. Thus, in the case of a United States registered aircraft which is being operated by aliens under a lease or other legal arrangement, the operator is unable to obtain a radio station license because of the requirement of citizenship, and the registered owner cannot secure a radio station license because he is not in control and possession of the radio equipment. Also, the operator would probably not be able to obtain a station license from his country of nationality as the Chicago convention, to which the United States and many other nations are parties, requires that a license to install and operate radio equipment shall be issued by the State in which the aircraft is registered.

The proposed amendment to section 310 (a) would remove the requirement of citizenship and allow aliens in control of United States registered aircraft to have radio equipment installed in the aircraft by authorizing the Federal Communications Commission to issue radio station licenses in these cases. The Board recommends the adoption of such an amendment.

Accordingly, while the Board endorses both H. R. 8543, and H. R. 6886, it prefers H. R. 8543 in view of its more complete coverage.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

JAMES R. DURFEE, *Chairman.*

DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, May 1, 1958.

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: In your letter of April 25, 1957, you requested the views of the Department of Commerce on H. R. 6886, a bill to amend the Communications Act of 1934 to authorize, in certain cases, the issuance of licenses to noncitizens for the operation of radio stations on aircraft.

In your letter of July 9, 1957, you requested our views on H. R. 8543, a bill to amend the Communications Act of 1934 to authorize, in certain cases, the issuance of licenses to noncitizens for radio stations on aircraft and for the operation thereof.

These comments are submitted with respect to both of the above bills because they deal with the same basic subject.

The Department of Commerce, while favoring enactment of either of these bills, prefers the enactment of H. R. 8543.

The enactment of H. R. 8543 is preferred because, like H. R. 6886, it provides for the issuance to noncitizens of a license to operate on

aircraft radio but in addition provides for the issuance of a license to an aircraft radio station itself when aboard an aircraft. In other words, H. R. 8543 provides for the licensing of both the foreign radio operator and the foreign radio station.

The object of both bills is to give the Federal Communications Commission discretionary authority to issue these licenses. We believe it is particularly important that the Federal Communications Commission have this authority with respect to waiving the citizenship requirement in the case of the noncitizen aircraft radio operator. It is a basic requirement on both bills that the noncitizen hold a United States pilot certificate issued by the Civil Aeronautics Administration or foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments.

We are of the opinion that foreign pilots who have been found competent to operate aircraft radio transmitters, and otherwise meet such qualification as may be laid down by the Federal Communications Commission, should be so licensed. We believe this to be important from both practical and safety standpoints.

From the practical standpoint, the existing restriction against non-citizens operating aircraft radio transmitters is a handicap in the training of foreign pilots who are in this country for aircraft instrument and flight instruction. This restriction is also, in our judgment, an unreasonable restraint against foreign pilots who may be operating United States aircraft in this country under lease, charter or other right and, although entirely competent to operate the aircraft's transmitting equipment, are not permitted to do so, but must employ the services of a United States radio operator licensee for this purpose. The same handicap similarly affects foreign pilots who may be here as displaced persons in the process of becoming citizens.

We also believe that the proposed legislation is desirable from the standpoint of safety in aviation. As previously indicated, so far as aviation laws, rules, and regulations are concerned, foreign pilots may operate aircraft within the United States and thus, with respect to any operation in which the use of radio is not required, foreign pilots may operate aircraft anywhere in the United States. However, although the regulations permit the conduct of many types of aircraft operation without radio, there are many situations in which the use of radio for such operations is desirable and increases the degree of safety. Therefore, since this legislation would remove the existing restriction prohibiting use of aeronautical radio by foreign pilots, it would in many instances increase the degree of safety with which operations could be conducted by such pilots. For this reason we believe that the proposed legislation is desirable in the interest of safety in civil aviation.

As indicated above, both bills are identical with respect to the issuance of aircraft radio operators licenses to noncitizens. However, H. R. 8543 contains the added provision which gives to the Federal Communications Commission the discretionary authority to license the foreign aircraft radio station itself. We believe this is desirable for essentially the same reasons that pertain to the issuance of the noncitizen operators licenses. It seems to us logical that the entire discretion should rest with the Federal Communications Commission.

It is for the above reasons that we favor the enactment of either of the above bills, but prefer enactment of H. R. 8543.

The Bureau of the Budget has advised that it interposes no objection to the submission of this letter to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

DEPARTMENT OF STATE,
Washington, April 4, 1958.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. HARRIS: The receipt is acknowledged of your communication of July 9, 1957, requesting a report and comments on H. R. 8543, a bill to amend the Communications Act of 1934 to authorize, in certain cases, the issuance of licenses to noncitizens for radio stations on aircraft and for the operation thereof.

Please be advised in response that the Department of State would favor the enactment of a law containing the provisions of this bill, as being in the interest of foreign relations in the fields of telecommunications and aviation.

It would be suggested, however, that the terminology employed in the bill be reviewed with representatives of the Civil Aeronautics Board or of the Civil Aeronautics Administration, before passage of the law. For example, it is not believed that pilots certificates are issued by the "Civil Aeronautics Commission." Perhaps it would be better simply to refer to "pilots certificates issued by the United States Government."

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,
*Assistant Secretary
(For the Secretary of State).*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 1, 1958.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letters of April 25 and July 9, 1957, requesting the views of this office on H. R. 6886 and H. R. 8543, respectively. These similar bills would amend the Communications Act of 1934 to authorize granting of certain licenses in connection with the operation of aircraft radios by noncitizens.

The Secretary of Commerce and the Chairman of the Civil Aeronautics Board, in reports they are making to your Committee on these bill, would support enactment of either of them but would favor H. R. 8543 because of its more complete coverage.

This office concurs with the views contained in these reports and favors enactment of H. R. 8543.

Sincerely yours,

PHILLIP S. HUGHES,
Acting Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SECTIONS 303 (1) AND 310 (a) OF THE COMMUNICATIONS ACT OF 1934

GENERAL POWERS OF THE COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires, shall—

(a) * * *

* * * * *

(1) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens of the United States as the Commission finds qualified, *except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates issued by the Civil Aeronautics Commission, or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments;*

* * * * *

LIMITATION ON HOLDING AND TRANSFER OF LICENSES

SEC. 310. (a) The station license required hereby shall not be granted to or held by—

- (1) Any alien or the representative of any alien;
- (2) Any foreign government or the representative thereof;
- (3) Any corporation organized under the laws of any foreign government;
- (4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;
- (5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted, after June 1, 1935, by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws

of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

Nothing in this subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by Act of Congress or any treaty to which the United States is a party.

Notwithstanding paragraph (1) of this subsection, a license for the operation of a radio station on an aircraft may be granted to and held by a person who is an alien or a representative of an alien if such person holds a United States pilot certificate issued by the Civil Aeronautics Commission or a foreign aircraft pilot certificate which is valid in the United States on the basis of reciprocal agreements entered into with foreign governments.

